



Agency Legislative Proposal - 2020 Session

Document Name: 2020 DRS #1 Minor & Technical.docx

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Department of Revenue Services

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Lead agency division requesting this proposal: [Click here to enter text.](#)

Agency Analyst/Drafter of Proposal: Marilee Clark

Title of Proposal: AAC Minor and Technical Changes to Title 12.

Statutory Reference: §§ 12-391(c), 12-392(b)(3)(J), 12-643, 12-408(1)(I), 12-411(1)(I), 12-701(a), 12-704c(d) and one new section

Proposal Summary:

Sections 1-3: Make changes to and revises language in the Estate and Gift Tax provisions to conform with the thresholds in Public Act 18-81. These changes were in House Bill 7375, File No. 879, of the 2019 session, but never made it out of the Senate; Sections 4 and 5: Revise language in the sales and use tax to codify the current taxation of meals; Section 6: Provides a definition of “pension and annuity income” for purposes of the income tax subtraction modification, which is effective with the 2019 tax year. This definition comports with the budgeted fiscal impact of the deduction; Section 7: Revises the income tax credit for individuals who will pay the 2.25% real estate conveyance tax rate on properties in excess of \$2.5M. This change also comports with the adopted fiscal note; Section 8: Codifies that a pass-through entity may file a composite income tax return on behalf of its nonresident members or partners.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
- (3) Have certain constituencies called for this action?
- (4) What would happen if this was not enacted in law this session?

[Click here to enter text.](#)



◇ **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

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PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: Click here to enter text.

Agency Contact (name, title, phone): Click here to enter text.

Date Contacted: Click here to enter text.

Approve of Proposal **YES** **NO** **Talks Ongoing**

Summary of Affected Agency’s Comments

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Will there need to be further negotiation? **YES** **NO**

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal *(please include any municipal mandate that can be found within legislation)*

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State

Precludes a revenue loss (sec.5).

Federal

Click here to enter text.

Additional notes on fiscal impact

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◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

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◇ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

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DRS #1: AAC Minor and Technical Changes to Title 12.

Section 1. Subsection (c) of section 12-391 of the general statutes is amended by adding subdivision (4) as follows *(Effective October 1, 2020)*:

(NEW) (4) "Federal basic exclusion amount" means the dollar amount published annually by the Internal Revenue Service at which a decedent would be required to file a federal estate tax return based on the value of the decedent's gross estate and federally taxable gifts.

Sec. 2. Subparagraph (J) of subdivision (3) of subsection (b) of section 12-392 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective October 1, 2020)*:

(J) A tax return shall be filed, in the case of every decedent who dies on or after January 1, 2023, and at the time of death was (i) a resident of this state, or (ii) a nonresident of this state whose gross estate includes any real property situated in this state or tangible personal property having an actual situs in this state. If the decedent's Connecticut taxable estate is over [five million four hundred ninety thousand dollars] the federal basic exclusion amount, such tax return shall be filed with the Commissioner of Revenue Services and a copy of such return shall be filed with the court of probate for the district within which the decedent resided at the date of his or her death or, if the decedent died a nonresident of this state, the court of probate for the district within which such real property or tangible personal property is situated. If the decedent's Connecticut taxable estate is equal to or less than [five million four hundred ninety thousand dollars] the federal basic exclusion amount, such return shall be filed with the court of probate for the district within which the decedent resided at the date of his or her death or, if the decedent died a nonresident of this state, the court of probate for the district within which such real property or tangible personal property is situated, and no such return shall be filed with the Commissioner of Revenue Services. The judge of probate for the district in which such return is filed



shall review each such return and shall issue a written opinion to the estate representative in each case in which the judge determines that the estate is not subject to tax under this chapter.

Sec. 3. Section 12-643 of the general statutes is amended by adding subdivision (4) as follows (*Effective October 1, 2020*):

(NEW) (4) "Federal basic exclusion amount" means the dollar amount published annually by the Internal Revenue Service over which a donor would owe federal gift tax based on the value of the donor's federally taxable gifts.

Sec. 4. Subparagraph (I) of subdivision (1) of section 12-408 of the general statutes, as amended by sections 317 and 323 of public act 19-117, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020, and applicable to sales occurring on or after October 1, 2020*):

(I) With respect to the sale of meals, as defined in subdivision (13) of section 12-412, [sold by an eating establishment, caterer or grocery store;] and spirituous, malt or vinous liquors, soft drinks, sodas or other beverages [such as are ordinarily dispensed at bars and soda fountains, or in connection therewith;] sold by an eating establishment or caterer for immediate consumption, in addition to the tax imposed under subparagraph (A) of this subdivision, at the rate of one per cent;

Sec. 5. Subparagraph (I) of subdivision (1) of section 12-411 of the general statutes, as amended by sections 318 and 324 of public act 19-117, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020, and applicable to sales occurring on or after October 1, 2020*):

(I) With respect to the acceptance or receipt in this state of meals, as defined in subdivision (13) of section 12-412, [sold by an eating establishment, caterer or grocery store;] and spirituous, malt or vinous liquors, soft drinks, sodas or other beverages [such as are ordinarily dispensed at bars and soda fountains, or in connection therewith;] sold by an eating establishment or caterer for immediate consumption, in addition to the tax imposed under subparagraph (A) of this subdivision, at the rate of one per cent;

Sec. 6. Subsection (a) of section 12-701 of the general statutes, as amended by section 332 of public act 19-117, is amended by adding subdivision (38) as follows (*Effective from passage*):

(NEW) (38) "Pension or annuity income" means any payments, other than a lump sum distribution, that are (A) received by an individual, (B) attributable to personal services performed by such individual prior to his or her retirement from employment, and (C) made pursuant to a plan described under Sections 401(k), 403(b), 414(j) and 457(b) of the Internal Revenue Code; provided such income is properly includible in federal adjusted gross income and not otherwise excluded from Connecticut



adjusted gross income. If any payments would otherwise come within the meaning of the term "pension or annuity income" as set forth in this subdivision, except that such individual is deceased, such payments shall, nevertheless, be treated as a pension or annuity for purposes of this subdivision if such payment is received by such individual's beneficiary.

Sec. 7. Subsection (d) of section 12-704c of the general statutes, as amended by section 335 of public act 19-117, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) (1) Notwithstanding the provisions of subsections (b) and (c) of this section, for taxable years commencing on or after January 1, [2021] 2023, for any taxpayer who paid the conveyance tax on real property at the rate prescribed by subparagraph (C)(ii) of subdivision (2) of subsection (b) of section 12-494, as amended by section 337 of public act 19-117, the credit allowed under this section shall not exceed thirty-three and one-third per cent of the amount of the conveyance tax paid [at such rate] in excess of one and one-quarter per cent on that portion of the consideration taxed under section 12-494 that is in excess of eight hundred thousand dollars, in each of the three taxable years [next succeeding the second] beginning with the third taxable year after the taxable year in which such conveyance tax was paid. For any taxable year such taxpayer claims the credit or portion thereof under this subsection, such credit shall be in lieu of any credit such taxpayer may be eligible to claim under subsection (b) or (c) of this section.

(2) If any credit allowed under this subsection or portion thereof is not used because the amount of the credit exceeds the tax due and owing by the taxpayer or the amount of property tax paid by the taxpayer, the unused amount may be carried forward to each of the successive taxable years until such amount is fully taken, except that in no event may any amount of the credit be carried forward for a period of more than six taxable years.

Sec. 8. (NEW) (*Effective from passage*) (a) The Commissioner of Revenue Services may, if the commissioner determines that the enforcement of chapters 228z and 229 of the general statutes would not be adversely affected, provide for an affected business entity to file a composite income tax return on behalf of each nonresident member of such affected business entity, subject to the requirements and conditions the commissioner may prescribe in the form and instructions for such return.

(b) If an affected business entity files a composite income tax return pursuant to this section, the affected business entity shall pay to the commissioner the tax, interest and penalties such nonresident member of such affected business entity would otherwise be required to pay under chapter 229 of the general statutes. Any such payment made by an affected business entity to the commissioner with respect to any taxable period shall be considered to be a payment by such nonresident member for the tax imposed on such nonresident member under chapter 229 of the general statutes for such taxable period.